



May 12, 2000

Mr. C.J. Brandt, Jr.  
General Counsel  
Department of Information Resources  
P. O. Box 13564  
Austin, Texas 78711-3564

OR20001877

Dear Mr Brandt:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 136646.

The Texas Department of Information Resources (the "department") received a request for a complete copy of the contract that the department has with the awarded company on Agency Requisition Number DIR-00-16019. You claim that the requested information does not exist. We have reviewed your arguments.

You assert that a contract has not yet been awarded to any vendor in connection with Agency Requisition Number DIR-00-16019 and that the department is still in negotiations and, therefore, the requested information does not exist. The Public Information Act (the "Act") does not require a governmental body to prepare new information in response to open records requests. Open Records Decisions Nos. 452 (1986), 342 (1982). Furthermore, the Act does not ordinarily require a governmental body to obtain new information to comply with a request. Open Records Decision 561 (1990). We also note that the Act does not require a governmental body to inform a requestor if the requested information comes into existence after the request has been made. ORD 452 at 3. In this instance, it appears the department does not have the requested information. Because the Act only applies to information already in existence, the department need not create any new documents to respond to the open records request.<sup>1</sup>

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

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<sup>1</sup>Because the requested information does not exist, we need not address the applicability of section 552.104.

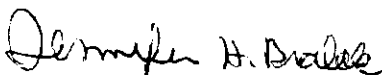
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Jennifer H Bialek  
Assistant Attorney General  
Open Records Division

JHB/pr

Ref: ID# 136646

cc: Mr. Wayland Whipple  
Spectrum Data  
10537 Gulfdale Drive  
San Antonio, Texas 78216  
(w/o enclosures)